

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	8:08CR50
vs.)	
)	PRELIMINARY ORDER
THOMAS GELLATLY,)	OF FORFEITURE
)	
Defendant.)	

NOW ON THIS 22nd day of August, 2008, this matter comes on before the Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture. The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. In Count III of said Superceding Indictment filed in this case, the United States seeks forfeiture of a custom desktop computer bearing service number 4480 and containing a Maxtor hard drive bearing serial number V60ETKYC, and digital files and file remnants containing or depicting child pornography or visual depictions of minors engaged in sexually explicit conduct, pursuant to 18 U.S.C., § 2253, on the basis these items were used or were intended to be used in any manner to promote the commission of the aforementioned violation of 18 U.S.C. §2252(A)(a)(2), charged in Count I of the Indictment.

2. The Defendant has entered into a Plea Agreement, whereby he has agreed to plead guilty to Counts I and III of said Indictment. Count I of said Indictment charges the Defendant with one count of receipt or distribution of child pornography, a violation of 18 U.S.C. § 2252(A)(a)(2).

Count III of said Indictment charges the Defendant with using the personal properties described above in paragraph 1., above, in any manner to promote the commission of the aforementioned violation of 18 U.S.C. §2252(A)(a)(2).

3. By virtue of said plea of guilty, the Defendant forfeits his interest in the subject properties, and the United States should be entitled to possession of said properties, pursuant to 18 U.S.C., § 2253.

4. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is hereby sustained.

B. Based upon Count III of the Indictment and the Defendant's plea of guilty, the United States is hereby authorized to the custom desktop computer bearing service number 4480 and containing a Maxtor hard drive bearing serial number V60ETKYC, and digital files and file remnants containing or depicting child pornography or visual depictions of minors engaged in sexually explicit conduct.

C. Defendant's interest in said properties are hereby forfeited to the United States of America for disposition in accordance with the law, subject to the provisions of 18 U.S.C., § 2253.

D. All of the aforementioned forfeited properties are to be held by the United States of American in its secure custody and control.

E. Pursuant to 18 U.S.C., § 2253, the United States forthwith shall publish at least once for three successive weeks in a newspaper of general circulation, in the county where the subject

properties are situated, notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the properties in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject forfeited properties must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the properties, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject properties and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the properties subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 18 U.S.C., § 2253, in which all interests will be addressed.

ORDERED this 22nd day of August, 2008.

BY THE COURT:

s/ Joseph F. Bataillon
JOSEPH F. BATAILLON
Chief United States District Court Judge